

MINUTES
MONROE COUNTY CONTRACTORS' EXAMINING BOARD REGULAR MEETING
Tuesday, January 8, 2013, 9:30 a.m.
Marathon Government Center

1. Call to Order/Roll Call

Rudy Krause called the meeting to order at 9:45 a.m. Present were Peggy Bankester, Steve Henson, Bill Miller, Alesha Scheuerman, Chris Sante, Vice-Chair Bill Kelly, Chair Rudy Krause, Code Compliance Attorney Lisa Granger, CEB Attorney Thomas Wright, and Building Official Jerry Smith.

Excused were Gary Centonze, Alternate Frank Toppino, and Second Alternate Charlie Miller

2. Agenda Changes

a. Notice to Appear Cases:

- i. CE12090008 - Manuel Menendez, Alejandro Menendez, and Eduardo La Casa – Continued to March 12, 2013 per County's request (case originally scheduled for 11/13/12)
- ii. CE12110118 – Timothy Sabalka – Dismissed and removed from agenda by County

b. License Review/Expired License

- i. Raul Gonzalez, H & R Paving, Inc., dismissed day of hearing and removed from agenda per county attorney

3. Approval of Minutes:

a. Regular Meeting: November 13, 2012

Rudy Krause brought up the changes made to the minutes after they were distributed on 12/27/12 to each member for review. The changes made were to page 5, Item #8, under Staff Reports & Discussions, Rudy Krause, b-1, as requested by Christine Hurley.

County Attorney Lisa Granger explained to the Board the changes made to page 5 of the minutes. Attorney Granger asked the Board which portions of the two paragraphs they remembered as the correct discussion or the correct result from the last meeting (11/13/12) since she was not at that meeting. She explained that the beginning part of page 5 paragraph item b: the ~~cross-out~~ was Odalys' (Mayan) recollection put together from listening to the recording; the language that is underlined, is language suggested by another staff member.

The Board requested some time to review and compare the two portions of the minutes. After a brief recess, Steve Henson made the motion to have the minutes tabled until the next meeting and Peggy Bankester seconded the motion. No nay votes.

4. Agenda Approval

Steve Henson made the motion to accept the changes to the agenda and Chris Sante seconded the motion. Motion approved unanimously.

5. Swearing in of Witnesses to Testify:

Tom Wright sworn in all of those giving testimony

6. Code Compliance Cases:

10:51 a.m.

a. CE12120017

Notice to Appear

Eric Salazar CCC1327963

Slazar Construction, Inc.

6-202.(11)a Work without benefit of a permit

Inspector Bruno

Mr. Salazar was present without legal representation to address the Board and contested the violation. Carlos Davalos, CGC1517556, CDB Construction, Inc., was present as a witness for the Respondent and Sully Roca was present as the translator for the Respondent. Code Compliance Inspector Bruno was present to address the County; after testimony and evidence was taken from all parties,

CE12120017 / Salazar case continuedDiscussion took place:

Applying Peel and Stick & Tarpaper on Roofs

Bill Miller addressed the Board and asked whether a general contractor is allowed to dry-in a roof. Steve Henson replied that as far as he is aware, plywood is a general or building contractor issue and it is under the scope of work of contractor; a roofer cannot do complete tear-offs and reconstruction. They (roofers) are only allowed to patch certain amount of plywood. The waterproofing membrane is part of the roof.

Rudy Krause asked the Building Official the question whether he would consider tarpaper the same thing (as part of the roof waterproofing membrane). The Building Official stated that from experience, because he cannot address licensing issues, if tarpaper is the only membrane and there is no secondary water barrier and it is part of either the Florida Product Approval or the NOA, roofing, only because its covered under a roofing license. General contractor on a roof in a building from its own construction, can only do wood shakes, shingles, or some other materials but no metal.

The Building Official further stated that if the Board wishes to allow a general or building contractor to do peel and stick or tarpaper on a roof, then the Board would have to make that directive to the Building Official, as they are the only governing body allowed to make licensing decisions.

After discussion, Steve Henson made the motion to find Respondent NOT in violation and seconded by Alesha Scheuerman. Motion approved unanimously.

Before moving to the next item, the Building Official addressed Mr. Miller's original question of whether a general contractor is allowed to dry-in a roof with tarpaper. He stated that he is precluded from having an opinion of what a contractor can do. The Board is the only opinion that counts. The Construction Industry Licensing Board addresses state licenses while the local board addresses the local licenses. Additionally, it is his opinion that if a general contractor has put the roof on and he is using tarpaper to dry-in the roof, he would not consider the general contractor in violation if drying-in the roof. The reason is because with tarpaper/felt, random spots can be cut to check the nail pattern if an inspection has not been conducted. Peel and stick is a whole different situation depending on the product approval being used.

b. CE12110117

Notice to Appear

Sean Lee Lilly CCC053255

Sean Lilly Roofing Co., Inc.

6-202.(11)a Work without benefit of a permit

Mr. Lilly was present without legal representation to address the Board and contested the violation. Code Compliance Inspector Bruno was present to address the Board. Inspector Bruno introduced case as CE13010028 formerly CE12110117. Inspector Bruno advised the Board that there were two citations issued: one citation was issued as a warning and the second as a notice to appear. The original case was CE12110117 and split for CEB hearing. Most of the paperwork has the original case number but it is under CE13010028.

Case DISMISSED at hearing per Attorney Granger since the contractor obtained an after-the-fact permits.

7.

Discussion

a. Applying Peel and Stick & Tarpaper on Roofs

This discussion is a continuation from an earlier discussion during Eric Salazar Code Compliance case. Rudy Krause reiterated that a contractor could do a shingle roof / wood shake roof (if building the building) and any other type of roof would require a specialty (roof) license. Mr. Krause stated that in order to do that roof you would have to put down tarpaper or a peel n stick over the plywood before you install the roof. He further stated that he have always put down tarpaper, but he has never done peel n' stick, and was able to get an inspection; general, building, or residential contractor licensed prior to 1973 (F.S.489.113.(3)(g)) allowed to do all types of roofing.

Building Official Smith, in response to a question from Bill Kelly, stated that most Miami-Dade NOA's require peel and stick be installed over tarpaper. However, that is not his preference. In Florida, peel and stick is not considered a final roof. For clarification, state licensed general, building, or residential contractor is allowed to put on certain types of roofing membranes (asphalt/shingles/wood shingles) on a building of his her own construction or a repair on a building of his or her own construction; or repair under warranty of his or her own construction; no metal or other materials allowed. (F.S. 489.113.(3)(g))

Building Official Smith, in response to a question from Steve Henson, stated that because we do not fall under their (Miami-Dade) law, we (Monroe County) have the option to use Miami-Dade NOA's or state approved NOA's, but in Miami-Dade, they can only use Miami-Dade approved product.

The Board and Building Official continued discussion where the Building Official stated that due to recent subsequent change in the law that has now precluded owner-builders from doing his or her own roofs except under specific set of circumstances like area being declared a disaster by the governor.

The Building Official stated that he is ok with a general contractor doing tarpaper. Attorney Granger, in response to the Building Official and Rudy Krause, stated that she would need to research the matter and bring it back to the Board because under our Code the CEB does not have the authority to issue this kind of decision. Under our Code, it is clear that the Building Official is the only one that can make that decision because the Board sits as an appellate court of the Building Official's interpretation.

As a result, the Building Official stated that it is his interpretation that a contractor can put on tarpaper.

b. Applying for Multiple Specialty Licenses

Rudy Krause was reviewing a Construction Trades application wherein someone is applying for nine different specialty licenses, and asked Attorney Granger if there are any restrictions in the Code as to how many licenses an individual can apply for rather than applying for a general contractor's license. In response to Mr. Krause, Attorney Granger stated that she does not know of such prohibition against getting multiple licenses, as this is a right to work state. Attorney Wright stated that there is no prohibition and probably if the county tried to put a prohibition on that, they wouldn't be able to do it.

Staff, in response to Chris Sante's question, stated that currently there is nothing in the Code that specify the time-frame in which someone must prove their experience in a category. However, that experience is taken into consideration when the applicant submits a completed application with appropriate reference letters detailing their work experience.

8. Staff Reports

- a. Jerry Smith, Building Official/Board Secretary - Nothing to report
- b. Thomas Wright, Contractors' Examining Board Attorney - Nothing to report
- c. Lisa Granger, Code Compliance Attorney - Nothing to report
- d. Ronda Norman, Code Compliance Director - Nothing to report

9. New Business

a. Lisa Granger

1. Stipulated Agreements

- i. CE12080127 executed 11/26/12 and CE12090106 executed 11/14/12

Chris Sante made the motion to approve the two stipulated agreements as a bulk item and seconded by Alesha Scheuerman. Peggy Bankester raised the question that she was uncomfortable voting for something that she was not sure what the stipulated agreements were for and she was abstaining from voting. Attorney Granger explained that a stipulated agreement is for those that do not wish to appear before the Board and need a payment plan, and an order from the Board is needed in the event they do not pay. Attorney Granger further stated that she does not get involved with the stipulated agreement process except only to approve the form and the practice is used sparingly.

New Business / Stipulated Agreements continued

After discussion ended, Peggy Bankester stated that she understood what the stipulated agreements were for, and she would not abstain from voting. No nay votes.

b. November 13, 2013 CEB Cases Update

1. Attorney Granger read into the record that fines and costs for CE12090054 David Cunningham and CE12080130 Victoriano Herrera were both paid in full.

c. Motion for Imposition of Fines/Liens for Outstanding Citations - Nothing to report

10. Old Business and Discussions

a. CBAA

1. Vacant Seat: Registered Architect

b. Longshoreman's Act

At the November 13, 2012 CEB hearing, Rudy Krause inquired about whether the Building Department could require/enforce a contractor to show proof of USL&H insurance and/or Jones' Act for any work adjacent to or over the water prior to permits being released as regular workers' compensation does not cover work along the water, and longshoreman insurance does not cover building a house, only work adjacent to water. Moreover, Jones' Act covers work over the water. At the meeting the Board reviewed the Dock Affidavit currently in use by the County.

The Board asked Attorney Williams (sitting in for Attorney Granger) to research the matter and to return with his findings.

UPDATE

At the January 8, 2013 CEB meeting, staff advised the Board of Attorney Williams' findings: Attorney Williams' recommends following the recommendation of Attorney Pedro Mercado's January 30, 2007 findings until new or contradictory information is provided or discovered. Attorney Granger agrees with Attorney Williams' recommendation.

Steve Henson asked Attorney Wright to research Attorney Mercado's January 30, 2007 decision on longshoreman's insurance. Attorney Wright stated that he would look at Attorney Mercado's memo and then give his interpretation at the next meeting.

11. Next Meeting:

a. March 12, 2013

b. Peggy Bankester advised the Board that she will not be in attendance

12. 2013 CEB Schedule13. Department of Business and Professional Regulation – Nothing to report14. Meeting adjourned at 3:49pm.15. Construction Trades Application

1. Rudy Krause read the Construction Trades applications into the record at 4:01pm.

Odalys Mayan, License Coordinator

To request a copy of this hearing, please visit Monroe County website at www.monroecounty-fl.gov > Residents > Channel 76. <http://fl-monroecounty.civicplus.com/index.aspx?nid=121>

The Board approved the Minutes on 03/12/13 [☒] "as submitted" or [☐] "as amended."

Minutes